

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ADAPTIX, INC., ) Case No. 5:13-cv-01776-PSG  
 )  
Plaintiff, ) **OMNIBUS ORDER RE: MOTIONS**  
 ) **TO SEAL**  
v. )  
APPLE INC., et al., ) **(Re: Docket Nos. 426, 428, 430, 432, 443,**  
 ) **447, 449, 455, 456, 458, 468)**  
Defendants. )

ADAPTIX, INC., ) Case No. 5:13-cv-01777-PSG  
 )  
Plaintiff, ) **OMNIBUS ORDER RE: MOTIONS**  
 ) **TO SEAL**  
v. )  
APPLE INC., et al., ) **(Re: Docket Nos. 495, 498, 500, 507, 510,**  
 ) **512, 519, 520, 522, 530)**  
Defendants. )

ADAPTIX, INC., ) Case No. 5:13-cv-01778-PSG  
 )  
Plaintiff, ) **OMNIBUS ORDER RE: MOTIONS**  
 ) **TO SEAL**  
v. )  
AT&T MOBILITY LLC., et al., ) **(Re: Docket Nos. 423, 426, 433, 436, 438,**  
 ) **445, 446, 447, 453)**  
Defendants. )

ADAPTIX, INC.,

Plaintiff,

v.

CELLCO PARTNERSHIP d/b/a Verizon  
Wireless, et al.,

Defendants.

Case No. 5:13-cv-01844-PSG

**OMNIBUS ORDER RE: MOTIONS  
TO SEAL****(Re: Docket Nos. 392, 394, 396, 403, 406,  
408, 414, 415, 416, 424)**

ADAPTIX, INC.,

Plaintiff,

v.

APPLE INC., et al.,

Defendants.

Case No. 5:13-cv-02023-PSG

**OMNIBUS ORDER RE: MOTIONS  
TO SEAL****(Re: Docket Nos. 467, 470, 472, 480, 483,  
485, 492, 493, 495, 501)**

Before the court are fifty administrative motions to seal several documents. “Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’”<sup>1</sup> Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.”<sup>2</sup> Parties seeking to seal judicial records relating to dispositive motions bear the burden of overcoming the presumption with “compelling reasons” that outweigh the general history of access and the public policies favoring disclosure.<sup>3</sup>

However, “while protecting the public's interest in access to the courts, we must remain mindful of the parties' right to access those same courts upon terms which will not unduly harm their competitive interest.”<sup>4</sup> Records attached to nondispositive motions therefore are not subject

<sup>1</sup> *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 & n. 7 (1978)).

<sup>2</sup> *Id.* (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

<sup>3</sup> *Id.* at 1178-79.

<sup>4</sup> *Apple Inc. v. Samsung Electronics Co., Ltd.*, 727 F.3d 1214, 1228-29 (Fed. Cir. 2013).

1 to the strong presumption of access.<sup>5</sup> Because the documents attached to nondispositive motions  
 2 “are often unrelated, or only tangentially related, to the underlying cause of action,” parties moving  
 3 to seal must meet the lower “good cause” standard of Rule 26(c).<sup>6</sup> As with dispositive motions, the  
 4 standard applicable to nondispositive motions requires a “particularized showing”<sup>7</sup> that “specific  
 5 prejudice or harm will result” if the information is disclosed.<sup>8</sup> “Broad allegations of harm,  
 6 unsubstantiated by specific examples of articulated reasoning” will not suffice.<sup>9</sup> A protective order  
 7 sealing the documents during discovery may reflect the court’s previous determination that good  
 8 cause exists to keep the documents sealed,<sup>10</sup> but a blanket protective order that allows the parties to  
 9 designate confidential documents does not provide sufficient judicial scrutiny to determine whether  
 10 each particular document should remain sealed.<sup>11</sup>

12 In addition to making particularized showings of good cause, parties moving to seal  
 13 documents must comply with the procedures established by Civ. L.R. 79-5. Pursuant to  
 14 Civ. L.R. 79-5(b), a sealing order is appropriate only upon a request that establishes the document  
 15 is “sealable,” or “privileged or protectable as a trade secret or otherwise entitled to protection under  
 16 the law.” “The request must be narrowly tailored to seek sealing only of sealable material, and  
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<sup>5</sup> See *id.* at 1180.

21 <sup>6</sup> *Id.* at 1179 (internal quotations and citations omitted).

22 <sup>7</sup> *Id.*

23 <sup>8</sup> *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002);  
 24 see Fed. R. Civ. P. 26(c).

25 <sup>9</sup> *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

26 <sup>10</sup> See *Kamakana*, 447 F.3d at 1179-80.

27 <sup>11</sup> See Civ. L.R. 79-5(d)(1)(A) (“Reference to a stipulation or protective order that allows a party to  
 28 designate certain documents as confidential is not sufficient to establish that a document, or  
 portions thereof, are sealable.”).

must conform with Civil L.R. 79-5(d).”<sup>12</sup> “Within 4 days of the filing of the Administrative Motion to File Under Seal, the Designating Party must file a declaration as required by subsection 79-5(d)(1)(A) establishing that all of the designated material is sealable.”<sup>13</sup>

With these standards in mind, the courts rules on the instant motions as follows:

<u>Motion to Seal</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reason/Explanation</u>
<b>Case No. 13-1776</b>			
426	Exhibit B-1 to Apple’s Bill of Costs	Designations highlighted in yellow at Docket No. 426-3 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
428	Exhibit B-1 to the Declaration of S. Dennis Wang in Support of Verizon’s Bill of Costs	Designations highlighted in yellow at Docket No. 428-4 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
428	Exhibit B-2 to the Declaration of S. Dennis Wang in Support of Verizon’s Bill of Costs	Designations highlighted in yellow at Docket No. 428-6 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
430	Defendants’ Motion for Attorneys’ Fees	Designations highlighted in blue, red and green at Docket No. 430-5 and designations highlighted in yellow at 5:20-6:1, 10:7-12:11, 15:4-19 at Docket No. 434-1 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
430	Exhibit 1	SEALED	
430	Exhibit 6	UNSEALED	No declaration in support filed with the

<sup>12</sup> Civ. L.R. 79-5(b). In part, Civ. L.R. 79-5(d) requires the submitting party to attach a “proposed order that is narrowly tailored to seal only the sealable material” which “lists in table format each document or portion thereof that is sought to be sealed,” Civ. L.R. 79-5(d)(1)(b), and an “unredacted version of the document” that indicates “by highlighting or other clear method, the portions of the document that have been omitted from the redacted version.” Civ. L.R. 79-5(d)(1)(d).

<sup>13</sup> Civ. L.R. 79-5(e)(1). The Civil Local Rules have recently been amended shortening the time available to the designating party to file a supporting declaration from seven days to four days. As this rule change was only recently implemented the court applies the prior form of Civ. L.R. 79-5 for the purposes of this order.

			court as required by Civ. L.R. 79-5(e)(1).
430	Exhibit 7	UNSEALED	Only sealed portions narrowly tailored to confidential business information.
430	Exhibit 8	Designations highlighted in yellow at Docket No. 434-3 SEALED except designations highlighted in yellow at 453:8-19, 458:14-15, 459:5-6, 459:11, 459:15-18, 463:11-15, 464:3-23; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
430	Exhibit 9	SEALED	
430	Exhibit 10	Designations highlighted in green at Docket No. 430-11 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
430	Exhibit 11	Designations highlighted in red at Docket No. 430-12 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
430	Exhibit 12	Designations highlighted in yellow, green and purple at Docket No. 430-13 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
430	Exhibit 13	Designations highlighted in yellow and purple at Docket No. 430-14 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
430	Exhibit 14	SEALED	
430	Declaration of Christopher A. Hughes	Designations highlighted in red at Docket No. 430-16 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
430	Declaration of Bryant C. Boren, Jr.	Designations highlighted in red at Docket No. 430-17 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
432	Exhibit 2 – Defendants’ Motion for Attorneys’ Fees	Designations highlighted in red blue and green at Docket No.	Only sealed portions narrowly tailored to

		432-2 SEALED; all other designations UNSEALED.	confidential business information.
443	Adaptix's Opposition to Motion for Attorneys' Fees	Designations highlighted in yellow at Docket No. 443-3 and designations highlighted in green at Docket Nos. 453-1 and 454-1 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
443	Declaration of Nigel Jones	Designations highlighted in green at Docket No. 454-2 SEALED; all other text UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
443	Exhibit C	SEALED	
443	Exhibit F	Designations highlighted in yellow at Docket No. 443-6 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
443	Exhibit G	Designations highlighted in green at Docket No. 454-3 SEALED; all other designations UNSEALED	Only sealed portions narrowly tailored to confidential business information.
443	Exhibit H	Designations highlighted in green at Docket No. 454-4 SEALED; all other designations UNSEALED	Only sealed portions narrowly tailored to confidential business information.
447	Adaptix's Objections to Apple's Bill of Costs	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
449	Adaptix's Objections to Cellco Partnership d/b/a Verizon Wireless' Bill of Costs	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
455	Exhibit 1 – Adaptix's Opposition	Designations highlighted in yellow at Docket No. 455-2 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
455	Exhibit 2 – Declaration of Nigel Jones	Designations highlighted in yellow at Docket No. 455-3 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
455	Exhibit 3 – Exhibit C	Designations highlighted in red	Only sealed portions



		at Docket No. 455-4 SEALED; all other designations UNSEALED.	narrowly tailored to confidential business information.
455	Exhibit 4 – Exhibit G	Designations highlighted in red at Docket No. 455-5 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
456	Attachment 1 – Adaptix’s Opposition to Defendants’ Motion for Attorney’s Fees	Designations highlighted in blue at Docket No. 456-2 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
456	Attachment 2 – Exhibit H	Designations highlighted in blue at Docket No. 456-3 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
458	Defendants’ Reply in Support of Motion for Attorneys’ Fees	Designations highlighted in blue and yellow at Docket No. 458-5 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
468	Defendants’ Reply in Support of Motion for Attorneys’ Fees	Designations highlighted in orange at Docket No. 468-3 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
<b>Case No. 13-1777</b>			
495	Exhibit B-1 to Apple’s Bill of Costs	See entry re Case No. 13-1776: Docket No. 426.	
498	Defendants’ Motion for Attorneys’ Fees and Exhibits	See entry re Case No. 13-1776: Docket No. 430.	
500	Exhibit 2 – Defendants’ Motion for Attorneys’ Fees	See entry re Case No. 13-1776: Docket No. 432.	
507	Adaptix’s Opposition to Motion for Attorneys’ Fees and Exhibits	See entry re Case No. 13-1776: Docket No. 443.	
510	Adaptix’s Objections to Apple’s Bill of Costs	See entry re Case No. 13-1776: Docket No. 447.	
512	Adaptix’s Objections to AT&T’s Bill of Costs	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).

1	519	Materials Regarding Adaptix's Opposition to Defendants' Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 455.	
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3	520	Materials Regarding Adaptix's Opposition to Defendants' Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 456.	
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6	522	Defendants' Reply in Support of Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 458.	
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8	530	Defendants' Reply in Support of Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 468.	
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10	<b>Case No. 13-1778</b>			
11	423	Defendants' Motion for Attorneys' Fees and Exhibits	See entry re Case No. 13-1776: Docket No. 430.	
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13	426	Exhibit 2 – Defendants' Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 432.	
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15	433	Adaptix's Opposition to Motion for Attorneys' Fees and Exhibits	See entry re Case No. 13-1776: Docket No. 443.	
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17	436	Adaptix's Objections to HTC's Bill of Costs	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
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20	438	Adaptix's Objections to AT&T's Bill of Costs	See entry re Case No. 13-1777: Docket No. 512.	
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22	445	Materials Regarding Adaptix's Opposition to Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 455.	
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24	446	Materials Regarding Adaptix's Opposition to Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 456.	
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26	447	Defendants' Reply in Support of Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 458.	
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1	453	Defendants' Reply in Support of Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 468.	
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3	<b>Case No. 13-1844</b>			
4	392	Exhibits to Declaration of S. Dennis Wang in Support of Verizon's Bill of Costs	See entry re Case No. 13-1776: Docket No. 428.	
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6	394	Defendants' Motion for Attorneys' Fees and Exhibits	See entry re Case No. 13-1776: Docket No. 430.	
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8	396	Exhibit 2 – Defendants' Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 432.	
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10	403	Adaptix's Opposition to Defendants' Motion for Attorneys' Fees and Exhibits	See entry re Case No. 13-1776: Docket No. 443.	
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12	406	Adaptix's Objections to HTC's Bill of Costs	See entry re Case No. 13-1778: Docket No. 436.	
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14	408	Adaptix's Objections to Defendant Celco Partnership d/b/a Verizon Wireless' Bill of Costs	See entry re Case No. 13-1776: Docket No. 449.	
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16	414	Materials Regarding Adaptix's Opposition to Defendants' Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 455.	
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18	415	Materials Regarding Adaptix's Opposition to Defendants' Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 456.	
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20	416	Defendants' Reply in Support of Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 458.	
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22	424	Defendants' Reply in Support of Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 468.	
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24	<b>Case No. 13-2023</b>			
25	467	Exhibit B-1 in support of	See entry re Case No. 13-1776:	
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	Apple's Bill of Costs	Docket No. 426.	
470	Defendants' Motion for Attorneys' Fees and Exhibits	See entry re Case No. 13-1776: Docket No. 430.	
472	Exhibit 2 – Defendants' Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 432.	
480	Adaptix's Opposition to Motion for Attorneys' Fees and Exhibits	See entry re Case No. 13-1776: Docket No. 443.	
483	Adaptix's Objections to Apple's Bill of Costs	See entry re Case No. 13-1776: Docket No. 447.	
485	Adaptix's Objections to AT&T's Bill of Costs	See entry re Case No. 13-1777: Docket No. 512.	
492	Materials Regarding Adaptix's Opposition to Defendants' Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 455.	
493	Materials Regarding Adaptix's Opposition to Defendants' Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 456.	
495	Defendants' Reply in Support of Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 458.	
501	Defendants' Reply in Support of Motion for Attorneys' Fees	See entry re Case No. 13-1776: Docket No. 468.	

**SO ORDERED.**

Dated: March 23, 2015



PAUL S. GREWAL  
United States Magistrate Judge